

REMARKS**Claims 22, 24-28, 30-33, 36 and 38**

Claims 22, 24-28, 30-33, 36 and 38 are rejected as anticipated by Wyler (US 5,868,080). These claims include product-by-process limitations. It appears that the Examiner is not using the right legal standard. The product-by-process limitations cannot be simply ignored. As the Board of Appeals has already indicated in this application, if the product made by the claimed process is different from the prior art product, the claim is not anticipated. (Board of Appeals Decision, November 21, 2002, footnote 1.) Therefore, the only question here is whether Wyler's disclosure of "an integral anti-skid surface 36, formed e.g. by knurling or roughening..." (column 4, lines 17-18) is different from a claimed product resulting from the process of "mechanically scuffing," "scuffing" or "brushing...with at least one wire brush."

As shown by the Declaration of William P. Apps, the claimed "scuffed" surface is distinguishable from the Wyler surface. The Wyler surface would have a bumpy, shiny surface, while the claimed scuffed surface would have a smooth, yet dull surface with visible scuff marks. Since the product produced by the claimed surface is different from the Wyler product, Wyler does not anticipate these claims. The Declaration is sufficient because it shows that the product made by the product-by-process step (scuffing) would be distinguishable on examination from the Wyler prior art pallet, which is sufficient under the proper legal standard.

Claims 39-54

Claims 39-54 have been rejected as obvious over Wyler in view of Anderson (US RE29,192). This modification of Wyler is impossible. If the pallet of Wyler were modified to include only a single material, it would also be modified to *eliminate* the reinforcing bars. The Wyler reference would therefore not have any "roughened or knurled surfaces," upon which the Examiner relies for the rejection. Wyler cannot be modified to be made of a single material without also eliminating the "roughened or knurled surfaces." For this reason, claims 39-54 are patentable.

If any additional fees are due, please charge all fees to Deposit Account No. 50-1984.

Respectfully submitted,

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